



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Preston Bryant
Secretary of Natural Resources

David K. Paylor
Director

R. Bradley Chewning, P.E.
Regional Director

STATE WASTE BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

CIVES STEEL CORPORATION,

(EPA Permit ID# VAD982571630)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §10.1-1455, between the Waste Management Board and Cives Steel Corporation for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Waste Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1400.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Special Order.
6. "Cives Steel" means Cives Steel Corporation, the owner and operator of the Facility.
7. "Facility" means Cives Steel Company located in Winchester, Frederick County, Virginia.
8. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
9. "NOV" means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. Pursuant to 40 CFR 260, as incorporated in 9 VAC 20-60-260, the Facility is considered a "small quantity generator" because it generates no more than 1,000 kg of hazardous waste a month and no more than 1 kg a month of an acute hazardous waste is considered a "small quantity generator" and must comply with certain provisions contained in 40 CFR Parts 262, 264 and 265 (as incorporated in 9 VAC 20-60-10 *et seq.*
2. Accordingly, as a small quantity generator, the Facility has an EPA identification number of VAD982571630 to offer hazardous waste it generates for transportation to a facility permitted to treat, store, and dispose hazardous waste.
3. On March 9, 2005, the Department visited the Facility to assist with regards to complying with environmental laws relating to the treatment, storage and disposal of hazardous waste ("Compliance Visit"). During the Compliance Visit, the Department observed that the Facility had stored hazardous waste in a manner contrary to the Department's regulations concerning hazardous waste at 9 VAC 20-60-260 *et seq.*
4. Specifically, five 55-gallons drums as observed by the Department contained hazardous waste and had been stored for more than 180 days within the Accumulation Area at the Facility contrary to 40 CFR 262.34(d). Two of the drums contained waste rags contaminated by chemicals, including hazardous waste.
5. DEQ also made the following observations:
 - a. Five, 55- gallon drums did not have labels marked "Hazardous Waste" or showed the first date of storage at the Facility as required by 40 CFR 262.34(c)(1)(ii) and (c)(2), as incorporated in 9 VAC 20-60-262;
 - b. The Facility did have documentation that it had made

arrangements for emergency response with local fire departments and/or police departments as required by 40 CFR 264.37 and 264.52(c), as incorporated by 9 VAC 20-60-264;

- c. The Facility did not have lids on the three of the 55-gallon drums as required by 40 CFR 264.173, as incorporated by 9 VAC 20-60-264.
- d. The Facility had no evidence that it performed weekly inspections of the drums as required by 40 CFR 264.174, as incorporated by 9 VAC 20-60-264;
- e. The Facility did not label containers consisting of fluorescent bulbs for disposal with the words, "Hazardous waste" as required by 40 CFR 273.14(e) as incorporated in 9 VAC 20-6-1505. C.4.

By letter dated April 4, 2005 the Department provided Cives Steel with a recitation of its observations during the Compliance Visit and recommended that Cives improve in the areas listed in Paragraph (a) through (e) above.

On September 9, 2005, the Department conducted an inspection of the Facility to verify the implementation the Department's recommendations and compliance with the Virginia Hazardous Waste Management Regulations at 9 VAC 20-60-10 et seq.. During the inspection, the Department observed that the Facility did not implement the Department's recommendations. Accordingly, the Department asserts that Cives failed to comply with the Virginia Hazardous Waste Regulations at 9 VAC 20-60-10 et seq. The Department's specific allegations are contained in a Notice of Violation dated September 21, 2005 as follows:

- a. Failure to label five, 55- gallon drums with the words, "Hazardous Waste" and,
- b. reflect on a label the first date of storage at the Facility as required by 40 CFR 262.34(c)(1)(ii) and (c)(2), as incorporated in 9 VAC 20-60-262;
- c. Failure to have documentation that Cives Steel had made arrangements for emergency response with local fire departments and/or police departments as required by 40 CFR 264.37 and 264.52(c), as incorporated by 9 VAC 20-60-264;
- d. Failure to properly secure three of the 55-gallon drums as required by 40 CFR 264.173, as incorporated by 9 VAC 20-60-264.

- e. Failure to have documentation showing that Cives Steel performed weekly inspections of the drums as required by 40 CFR 264.174, as incorporated by 9 VAC 20-60-264;
- f. Accumulation of greater than 55 gallons of hazardous waste in the satellite accumulation area through the use of two (2) drums for hazardous waste rags as required by 40 CFR 262.34 (c) (1);
- g. Failure to label containers consisting of fluorescent bulbs for disposal with the words, "Hazardous Waste" as required by 40 CFR 273.14(e,) as incorporated in 9 VAC 20-6-1505. C.4.

By letter dated October 5, 2005, Cives Steel demonstrated that it complied with the Virginia Hazardous Waste Regulations by:

- 1. Labeling the five, 55-gallons drums with the words, "Hazardous Waste" and adding the accumulation date;
- 2. Properly covering hazardous waste drums;
- 3. Clearly marking another drum that did not contain hazardous waste as "New Rags";
- 4. Marking the container with the fluorescent bulbs as "Hazardous Material"; and
- 5. Documenting arrangements with local emergency responders and weekly inspections.

Cives Steel agrees to enter into an Order, this document, and pay civil charges for the alleged violations addressed in this Consent Order.

SECTION D: Agreement and Order

Accordingly, the Waste Board, by virtue of the authority granted it under Section 10.1-1455 of the Va. Code orders Cives Steel and Cives Steel agrees, to perform the actions of this Order. In addition, the Board orders Cives Steel and Cives Steel voluntarily agrees, to pay a civil charge of **\$9,800 within 60 days of the effective date of the Order** in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Cives Steel shall include its Federal Identification Number with the civil charge payment and shall note on the check that payment is being made pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Cives Steel, for good cause shown by Cives Steel, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in NOV (WS-05-09-VRO-57), issued to Cives Steel on September 21, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Cives Steel admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Cives Steel consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Cives Steel declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.* and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Cives Steel to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Cives Steel shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Cives Steel shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Cives Steel shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
- a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Cives Steel intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Cives Steel. Notwithstanding the foregoing, Cives Steel agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Cives Steel. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Cives Steel from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Cives Steel voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7 day of April, 2006.


David K. Paylor, Director
Department of Environmental Quality

Cives Steel voluntarily agrees to the issuance of this Order.

By: 

Travis Cooper

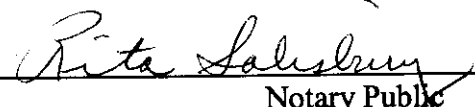
Date: January 25, 2006

Commonwealth of Virginia

City/County of Frederick

The foregoing document was signed and acknowledged before me this 25th day of
January, 2006, by Travis Cooper, who is
(name)

Divisional Safety Officer of Cives Steel, on behalf of the corporation.
(title)


Notary Public

My commission expires: My Commission Expires
July 31, 2009